

CRIMES OF WAR: A PERSONAL ACCOUNT OF THE HORRORS REVEALED BY AN INVESTIGATION OF A NAZI WAR CRIMINAL

Peter Watson *

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I. INTRODUCTION

Crimes of war pose an inherent contradiction. They demand justice, but we find ourselves uneasy at putting our enemies on trial. Since Nuremburg, such issues have challenged our morality and confronted our conscience. Is it that we recoil from the spoils of the victor, taking illegitimate advantage of the vanquished? Is it that we do not wish to look too deeply at the crimes of others fearing in the process that our own may be discovered? Or is it that we do not wish to face the reality of what we do to eachother in war?

There are always reasons why it seems better to leave matters alone, one reason being to avoid disturbing an uneasy peace. For example, after the Second World War the *Ratline*, as it became known, was a route to freedom for many of our former enemies. Soldiers, scientists, butchers and torturers, who shortly before had been our sworn enemies, were welcomed to our shores. The function of the *Ratline* was

* Peter Watson, B.A., LL.B., SSC, is a partner in the firm of Levy & McRae located in Glasgow, Scotland.

not to protect the innocent, but rather to conceal the guilty. As stated by Philip Noel Baker, "In our view, the punishment of war criminals is more a matter of discouraging future generations than of meting out retribution to every guilty individual. It is now necessary to dispose of the past as soon as possible."¹

But the past was not disposed of, nor has it ever been disposed of in any of the wars and conflicts which followed. We can look at wars from Vietnam to Bosnia. The cry after the war is the same. It is a cry for justice; an eternal cry that will not be silenced. A cry which may be ignored in the short term, but at what price? Why does this cry for justice haunt us? Perhaps the answer is a selfish one: The love of justice in most men is simply the fear of suffering injustice.

The case I am about to discuss is a curious case. It can be termed many things: an indescribable brutality; an unbelievable horror; an acknowledgment of a forgotten holocaust; one of the greatest detective stories of the latter part of the 20th Century; the first British War Crimes trial since William the Conqueror; and, most importantly, a moment when a nation heard the cry for justice.

That same nation, Great Britain, which had at one moment in history stood alone against the might and power of Hitler, isolated in Europe as the last bastion of freedom and decency, was yet a home for those who had committed the worst atrocities imaginable. Britain the *Victor* had become Britain *The Nazi Safe House*. Then, a T.V. company and a journalist, unlikely champions of justice you may think, responded to a cry for justice which had been met with a deafening silence for almost half a century. Two documentaries were made, facilitating a change in Britain law. For the first time the retrospective prosecution of crimes committed outside of the territorial jurisdiction of the United Kingdom was allowed. More significantly, Britain faced the issue of war crimes: crimes against humanity, crimes against men, crimes against women and children — the forgotten holocaust in Lithuania.

On a more personal note, this was the most important, rewarding case I have ever dealt with, and also, unfortunately, the most horrific case I have ever dealt with. If an attorney is fortunate, she will have a chance to do something that has worldwide significance. She will have the chance to do something honorable. Simply, she will have a moment to do something right and worthwhile. This case was such a moment for me.

1. Philip Noel Baker, 1948 British Cabinet Minister.

II. THE STORY

A. *Enacting the War Crimes Act*

In 1986 Robert Tomlinson was a television journalist for Scottish Television, Scotland's major independent television company. As an award-winning journalist, he was well regarded within his profession. He noticed newspaper clippings suggesting that Britain had up to seventeen Nazi War Criminals living in the country under false names. One was said to live in Scotland — so the story began.

Like *Watergate*, this story was only expected to be a short piece that would fill airspace on a slow news night. Instead, it led to Prime Minister Margaret Thatcher fighting one of the greatest battles of her political life to force a change in our law which was said to go to the heart of our unwritten constitution. It saw at first a governmental defeat, and then ultimately the use of the Parliament Act for the second time in British Parliament history to overrule the opposition of the House of Lords.

Tomlinson discovered a man called Gecas was living in Edinburgh who, it was said, was a war criminal. It was claimed he had participated in the hangings and shootings of men, women, and children, in the mass exterminations of Jews in Lithuania and he was on the wanted list of the Weisenthal Centre. Britain accepted him to her shores by the Ratline, and he lived comfortably in the Scottish Capital, safe from prosecution, since we could not prosecute a man for a crime which took place in 1941 in another country.

The story became much more important. Gecas had been interviewed by the United States Department of Justice, Office of Special Investigation (O.S.I.) in relation to their efforts to deport members of Gecas' battalion living in the United States. The Soviet Union sought extradition of Gecas in relation to their own war crimes investigation yet Britain not only gave him a home, we gave him protection from those who sought to punish him. This seemed bizarre to Tomlinson. He left for the Soviet Union with a film crew. Months later two documentaries would be shown across the United Kingdom: *Britain — Nazi Safe House* and *Crimes of War*. The latter became an international award winner.

This effect was one of disbelief and shock. Parliament debated. Newspapers chased after Gecas. The conscience of a nation was challenged. Many said, as the Government had in 1945, that these things were best left alone. What was the point of stirring up old memories after so many years? What could be done now? How could we prove these allegations? Perhaps these allegations were false anyway. However, the documentaries revealed some of the evidence gathered by the KGB, and

held by the Soviet Union. Survivors had been interviewed. Some who had taken part in these horrible events had spoken on camera. The United States was then, as it is today, pursuing soldiers of the same battalion. Enough was enough. Margaret Thatcher, a Prime Minister with her own view of what Britain stood for under her leadership, moved to do the unthinkable — change the law which prevented retrospective prosecution, a protection deeply rooted in our unwritten constitution. In the face of great opposition, and after much debate, the War Crimes Act was enacted.²

B. The Gecas Gamble: A Response to the Threat of Prosecution

Gecas now in his late 70's was astute. He had a plan. The *Gecas Gamble* was clever. He decided to sue Scottish Television. He had just successfully sued the *London Times*, which had been unable to overcome the legal presumption that what they printed was untrue. Fortified with this victory, he gambled Scottish Television would also fail to prove the truth of their allegations. He gambled that Scottish Television would never get its witnesses to Britain, being that the witnesses were old or dead. He gambled that many obstacles lay in the path of Scottish Television, including that the documents were in the hands of the KGB. If there was a civil trial it would allow him to argue that any criminal trial should not take place due to the prejudice created by the civil case.

It was a clever answer to all his problems. He issued his writ — his luck was in! The Soviet Union was in political turmoil and with it the role and influence of the KGB was waning just at a time when their cooperation as a source of evidence was crucial. The new emergent Lithuania was not keen to become involved in raking over old wounds, exposing its role in this holocaust. In any event, the country had more important matters before them.

In July 1990 the writ was served; the battle had begun. The first question when sued is, do you settle? Fortunately this proved easy to answer, even for the insurers of Scottish Television. The allegations were so substantial that no one would be party to such a deal. This decision made, the hard part began. We had no idea how hard.

C. The Investigation

The first team of lawyers and investigators were dispatched to Lithuania. In January 1991 the team was hard at work in the Lithuania capital, Vilnius. They were awakened at about 2:00 a.m. on a Sunday morning by the rumbling of tanks. The Soviet Union was breaking up;

2. War Crimes Act, 1991, ch. 13 (Eng.).

their army of occupation was leaving, and with it their grip on power. The KGB, who had been supplying information and finding witnesses, sent 4 cars to Lietuva Hotel to evacuate our team to Russia. All of our sources of evidence; leads; and witnesses had gone.

Our team returned to Scotland, where the case against Scottish Television gathered pace. The time available to prove our case was narrowed to a matter of months. We needed a plan. The plan was the most ambitious and expensive I have ever been involved with. It required spending 2 million dollars in 5 months.

The 12th Lithuanian Police Battalion, Gecas' Battalion, had spread itself across the globe as the war ended. This was both an obstacle and an opportunity. Yes, we had the difficult task of finding them, but they were now isolated old men perhaps easier to extract information from.

We got help from the O.S.I. in the United States, the Weisenthal Centre in Israel, and many others. We dispatched a team of researchers to Nuremberg, and then hired an excellent firm of German attorneys. Names began to appear. Within 4 months we had inquiries running in Russia, the Ukraine, Poland, Hungary, Czechoslovakia, East Germany, West Germany, Australia, Israel, Lithuania, Canada and the United States. We had attorneys in most of these countries as well as teams of researchers — easy to see you can spend 2 million dollars!

The task was just a little daunting! We were investigating murders which happened in 1941, looking for evidence which would hold up in court. We decided the plan for evidence collection had to be twofold: documentary evidence and witness evidence. Given the passage of time and our pessimism about finding reliable eyewitness testimony, we needed documentary evidence especially.

The horrible story began to unfold as we ploughed our way through reams of documents and historical records. Some sources were well known and documented, such as the records at Nuremberg, but some, like the papers recovered from sealed vaults of the now former KGB offices in Lithuania, were a first.

Our hope was to uncover the origins of the 12th Lithuanian Battalion, and discover its role in what had taken place. We sought to document a history of killings, but found instead a holocaust. A picture began to emerge.

1. Documentary Evidence: A Story Told by Old Reports and Orders³

Gecas was the commander of the 12th Lithuanian Auxiliary Police Service Battalion. He was in command in Kaunas in 1941 and moved with his Battalion to Minsk in October 1941.

The German military command at Minsk associated Jews with anti-German partisan activity. It was the military view that the destruction of the Jews⁴ was necessary for the proper pacification of the area. In August 1941 Himmler announced in Minsk that Hitler had declared as policy the annihilation of Jews and this was to include men, women and children. When the 12th Lithuanian Battalion arrived in Minsk the German military command had two complementary grounds, as they saw it, for killing Jews, that of pacification and to fulfill the policy of Hitler.

It was observed with the Jews that they often leave their residences in the flat country, probably emigrating towards the south, attempting to evade the operations initiated against them. Since they are all still making common cause with the communists and partisans, the total elimination of this element alien to the nation is being undertaken

. . . .

During a purge in the area Slutsk-Kleck by the 11th Police Battalion 5,900 Jews were shot.⁵

By persuading the Jews it was for their own safety, the Germans at this stage aimed to concentrate the Jews of Kaunas into a ghetto. The marking of all Jews with a yellow Star of David was required. Prior to the German invasion, about 20% of the population of Kaunas had been Jews. After what took place, they were virtually wiped out.

We established that 150 Lithuanian officials had been assigned to screen all towns, even prison camps, to ensure the arrest of Jews and have them taken to concentration camps where they were subject to what was

3. For our purposes one feature of the Germans was to become crucial in underpinning and making possible our eventual success. I refer to a preoccupation with keeping detailed records. In the account to follow, various reports collected during our investigation will be discussed.

4. When references were made to Jews, this referred to the indiscriminate gathering of Jews of both sexes and all ages.

5. See *supra* text accompanying note 4.

described as *special treatment*, namely execution. Reference was made in a Report in 1941 to it being possible very quickly in Lithuania: to bring Lithuania circles to self-cleanse themselves so that the complete exclusion of Jews from official life was attained.

Self cleansing meant an action undertaken by indigenous people, rather than the Germans, to kill Jews in their territory without the active participation of Germans. The report went on record with some satisfaction that spontaneous programs were occurring in all cities.

In what has become known as the Jager Report, Jager, the commander of Einsatzkommando No. 3, recorded that by October 1941 about 70,000 souls had been executed. This figure includes killings outside Kaunas in many other small towns in Lithuania. Jager records on December 1, 1941:

I can now say that Einsatzkommando 3 has achieved the objective of solving the Jewish problem in Lithuania. There are no longer any Jews in Lithuania with the exception of these Jews and their families under forced labour.

I also wish to kill these Jews and their families. However, this brought sharp criticism from Civil Authorities . . . and the Army, resulting in an express direction: 'These Jews and their families may not be shot.' This was because of the economic considerations which required their services in the occupation, for the moment at least.⁶

So far as the killing of Jews was concerned, it was envisaged that the Jews would disappear completely by the end of 1942. By letter dated August 7, 1941, Major Franz Lechtaler wrote from Kaunas to the Lithuanian Commandant requesting two new battalions. A specific request was made and approved for the transfer of Lieutenant Gecevicus' (Gecas). He became the Commander of Platoon 3 of the 2nd Company of the 12th Lithuanian Battalion. We established that on August 27, 1941, Gecas was on the job.

By order No. 42 dated October 6, 1941, Gecas and his men were ordered to the areas of Minsk, Borisov and Slutsk, reference being made in the orders to the final extermination of Bolshevik partisans. Within 4 days of arrival in the area, Gecas' battalion was in action in the area of Rudensk. Six-hundred thirty persons, including communists, Jews and

6 *Id.*

7. Once in Britain, the Lieutenant changed his name to Gecas.

other suspicious elements without identity papers were recorded as having been shot. Jews were in a category of their own, and only had to be Jews in order to be shot. There was no way that a Jew could demonstrate a right to live. It was understood Jews were to be shot partly because of a presumption that they were connected with the partisans, but mainly because Jews were to be killed in any case.

By October 1941 Gecas' battalion was primarily used to shoot Jews and communists. In a Report of the Smilovicze Operation of October 14, it is recorded that 1,300 heads were liquidated. The victims were specified as Jews, communists and elements hostile to Germans.

A further order dated October 16, 1941, refers to operations involving Gecas' battalion carried out in the Rudensk area. Specifically, it refers to 800 partisans, communists, Jews and other suspicious *riff-raff* who were detained and shot.

There was reference to the clearing out of a civilian prison camp in Minsk where 625 were liquidated. On the 18th of October, another prison camp was cleansed and 1,150 communists were shot. On October 21st, two companies of the police battalion were involved in an operation in Kojdanow, where 1,000 Jews and communists were liquidated.

When we examined the Reports of the Wermacht Commander for this area and time period, we could establish with mathematical certainty that six German or German Allied troops had been killed in combat with partisans and 10,940 partisans were captured. Of those captured, 10,431 were shot. It was also recorded that during a purge in Slutsk - Kleck an additional 5,900 Jews were shot.

There was great controversy over the massacre at Slutsk. On October 30, 1941, Carl, the Commissioner for Slutsk, wrote to the Commissioner General at Minsk as a follow-up to a telephone call on the 27th of October. He complained that a Lieutenant of a Police Battalion from Kaunas appeared at 8:00am on the 27th October explaining that he had an assignment to effect the liquidation of all Jews in Slutsk within two days. Carl had demanded to discuss the matter, but was told this was not possible. He was told that this action was to be carried out in all towns, and that two days had been allocated for Slutsk. Within those two days the town of Slutsk was to be cleared of Jews. There were an estimated 7,000 Jews in Slutsk. Carl protested violently, pointing out that such a liquidation of Jews must not be allowed to happen in such an arbitrary manner. He tried to intervene, but went on to record that all Jews without exception were taken out of the factories and shot or deported in spite of an apparent agreement to the contrary. We later established that deported meant taken just outside of town, out of earshot, to areas where pits were prepared and then they were shot.

Carl went on to complain that the shooting was chaotic. He referred to it as a picture of horror. He complained of indescribable brutality. He reported that some souls shot and buried in pits had not died, but had dug themselves out of their graves.⁸ Carl concluded by asking that the police battalions be kept away from him in the future.

2. Eyewitnesses

We had reconstructed the history of the period, pieced together from documents available from many sources. We painted for the first time an outline of a largely forgotten holocaust. We were ably assisted throughout by Professor Hilberg of Chicago University, a world authority on the holocaust. He sent us out to find the people to prove the picture thus far sketched. We now had to find witnesses to test the documents against recollections; confirm that our reconstruction was right; and prove that we were not being conned by some fiendish KGB plot of misinformation — as Gecas was ultimately to claim in court as a last recourse.

This task was not easy. With the fall of the Soviet Union the KGB were no longer in place to provide witnesses. We started from the lists we had. I had a very fortunate meeting with a former KGB officer in need of some work. A short commercial exchange delivered a name; it was an early and exciting lead. He had been in a Police Battalion and was in a position to confirm or deny the horror revealed in the host of reports and documents now amassed. We set out for Alytus to meet a monster. Instead, we met, as in all cases, a grandfather. We met ordinary men. We learned the holocaust was not the act of madmen or butchers from hell; the holocaust had been at the hands of ordinary men.

a. *Lenous Stonkus*

Lithuania was as short of food and fuel as it was of evidence! We had to travel out of Vilnius to find our witness Stonkus, and after a four hour drive in a car with no heater in temperatures of minus 20 degrees Celsius, we reached the address we had been given. Our first lesson in the murky duplicitous world of post-communist Lithuania was about to be learned.

8. We were even able to find an eyewitness who fully implicated Gecas in the Slutsk massacre. The eyewitness, which we thought might prove difficult to obtain, and even if obtained, probably so unreliable as to be worthless, turned out to be quite the opposite. This involved, for the first time in the United Kingdom, persuading the Court to travel from Scotland and sit in Lithuania and hear some eyewitness testimony. The logistics of this alone could keep me speaking for another day. I leave that for another time!

We knocked on a door flanked by our translator and asked to speak with Lenous Stonkus. "He's dead," we were told. We were about to leave when I noticed an unhealthy interest in our presence being shown by a neighbor who was ostensibly working under the hood of his car. I approached, and, in a classic moment of Scottish legal thinking, extracted a ten dollar bill. I ripped the bill in half and had my translator explain that I wanted to meet Stonkus. The other half of the bill was his if this could be arranged. Ten dollars represented about two months wages, more than enough to persuade any neighbor to inform on another, especially in a country where informing on your neighbors was part of the culture. Within minutes we were on the road to the Stonkus hideaway. He had served twenty years in Siberia for war crimes at the hands of the Russians. The ex-KGB man who had sold me his name had also sold Stonkus a warning we were coming! The lesson was learned. Always ask how dead is dead?

Stonkus gave us background information and further names. He confirmed from our list who he thought was alive and those he knew to be dead. Perhaps for the first time since he had been released from a Siberian prison he confronted his past. Almost mechanically he recounted the sins of his youth. When asked about the Jews he looked both ashamed and fearful — fearful perhaps of retribution yet to come. I have no doubt the chill of Siberia revisited him at that moment. We left Stonkus frightened and surrounded by his grandchildren. We had wanted to hate him, detest him, and see him shamed. Instead, we left behind an old man — a grandfather loved by his family. The experience dissipated our anger, and left us confused.

b. Antanas Aleksynas

In our continuing search for eyewitnesses, one document we had trawled from our research proved crucial. A railroad manifest contained, with true obsessive detail, the movements of troops, including the seating assignment of each soldier. When placed against a map from that time period, which revealed many villages long since destroyed or renamed, we could use the manifest to trace the journey of the 12th Lithuanian Police Battalion. This confirmed the names of the soldiers, but we discovered something much more important. The train had stopped at places where we already knew massacres had taken place. Closer examination and further research revealed that this train took the 12th Battalion on its *Journey of Death*. Each time the train dropped off the battalion whether for a day or for a few days, the local town records would reveal a massacre. They would then re-board and this machine of destruction would move on. We sought out the soldiers who had traveled this journey.

Antanas Aleksynas was such a soldier. We found him, now in his late 70's, living in a shack outside Kaunas, bringing up two young children following the death of his son and daughter-in-law in a road accident. He had been at the very heart of what we were interested in. He was remarkably frank and forthcoming. He was prepared to give evidence against Gecas, but on two conditions. First, he would not leave Lithuania. Second, he needed a *pig sitter* for his pigs! The dollar can achieve wonders in such countries. It did so in this instance. A *pig sitter* was found.

He identified Gecas as the Platoon Commander, he confirmed that Gecas spoke German and took all his orders from the Germans. On their first operation they were taken to a small township. Local Russian police pointed to Jewish residents. Gecas ordered Aleksynas and others to round them up. The Jews were taken to a gravel pit — men, women and children, about twenty or thirty in all. They were told to lie down, and then, they were shot. On another occasion they were taken to a POW camp. The POWs were taken out of the camp to pig pits. Two pits were dug. They measured about fifteen to twenty meters long, two meters wide and 1.5 meters deep. After the pits were dug, the lorries went back with the prisoners and returned, this time with Jews. The Jews were lined up at the pits and shot. Afterwards, the officers would go and check for survivors and shoot them, finishing them off. Hundreds were involved on this occasion. Gecas was there giving orders. The killing started in the afternoon and went on until the evening.

Aleksynas described the two day operation at Slutsk as being part of a long catalogue of horror which involved the whole battalion. Gecas was in charge of his platoon. On this occasion over 1,000 men, women and children were killed. He went through incident after incident chronicling the mass annihilation of the Jews. He recalled that the order given by Gecas was to shoot at your own discretion.

c. *Mignos*

Mignos was the next to be interviewed, another grandfather, another ordinary man. He too remembered the operation at the pits. He agreed to give evidence. He identified Gecas, and gave an equally chilling and detailed account of these horrors.

d. *Goga*

Goga, another soldier, was actually born in the United States, but returned to Lithuania as a young child. He was very articulate and precise. He was to travel to Scotland to give his evidence. He recalled an incident in Rudensk at the end of November 1941, where the battalion had traveled

by train. They were told to encircle a town, and to round up the Jews — men, women and children. Within forty minutes the Jews had been herded to a gravel pit and shot. He remembered the whole battalion going to a POW camp in Minsk, where close to 10,000 prisoners were held. The prisoners were to be taken to pits and shot. The Germans formed a corridor, which the POWs would be forcefully marched through in small groups. Leaving their clothes behind, each group was taken to a pit, and then shot in the nude. This operation took about two days. When the soldiers had finished, the officers stood at the pits, and *finished off* those alive. It took place like a conveyor belt operation. All ten thousand souls perished.

e. Mrs. Pickholz

As I indicated at the outset, we had investigations going on almost anywhere we thought we could find a Lithuanian from this time frame. Our luck was now turning. We found a key witness in Florida, Mrs. Pickholz.

In 1941, she was sixteen, and living in Slutsk. Since her mother was dead, she lived with her father, three younger sisters, and her five-year-old brother. The Germans entered Slutsk in June 1941. Restrictions were immediately placed on all Jews. In August her father was taken away never to be seen again. She was then head of the household. On October 26, 1941, she was working when soldiers suddenly flooded the town. Jews were being rounded up. She saw her own family amongst those rounded up. One of her younger sisters saw her and tried to run to her, but was struck down by soldiers with rifles. These soldiers were Lithuanian. She blacked out.

She awoke to find herself concealed in a barrel; she had been hidden by friends. As she peered out between the cracks in the barrel, she watched and listened to shooting going on. Later, she got out and found many had been taken to camps nearby. She went to the camps, not wearing her Star of David. She was to find all were shot. She never saw her sisters or brother again. No Jewish children were left alive. The soldiers left. This all took place in only two days.

f. *Luba Fisk- The schoolteacher*⁹

9. We had many other leads and investigations, some fruitful and some not so fruitful. Some like this one proved to be of no use to our case, but revealed another chapter of horror and human misery that must be told today if for no other reason than to bare witness to this human tragedy.

I received information from a confidential source that there possibly existed a key witness in Israel. All I was told was that she was a retired school teacher in her 70s, Lithuanian, and had one leg. That was it. I contacted a law firm that my firm uses in Tel Aviv, and placed my request. They hired a detective. Within forty-eight hours I got a call that such a woman was living in Afula in lower Galilee. We had been lead to believe she might identify Gecas as being involved in killings at the 9th Fort in Kaunas, a grim Lithuanian Belsen where thousands had been put to death.

Bob Tomlinson and I flew out to Ben Gurion Airport and rushed by car to Afula. We were met by Luba Fisk who indeed was a one legged retired school teacher originally from Lithuania. She told a heart-wrenching story. She had been a linguist; was married; and had a four-year-old child. They were confined to a ghetto. One day the soldiers arrived and people were being taken away in buses. The soldiers said that if the women could raise enough money or fetch enough gold, they would spare the children. They all ran in a frenzy bringing all they could find. It was taken, but so were the children and their parents. At the place of execution they were lined up to have their papers checked. The soldiers discovered that Luba spoke languages; there was a hasty discussion, and she was asked to stand to the right. Her four-year-old son was taken to rejoin the others. Moments later he was shot as she looked on. Luba lost her husband as well. She is now remarried and living in Israel. Regrettably for us this was an operation unconnected with Gecas. However, it was, and still remains for me, a chilling memory of a woman reliving pain beyond my imagination.

3. Piecing Together A Horrific Puzzle of Information

We moved on and unearthed all that Gecas had ever said in every interview and in every form ever recorded. He had been interviewed by the O.S.I. years before, and had given a deposition. He had subsequently given some stories to the press. We revealed a chain of lies, deceit, contradiction, and inconsistencies beyond repair or explanation. We compared these pathetic lies to our documents and witnesses as we prepared for court.

In Lithuania and in Scotland, it all began to come together: the proof of murders which occurred before I was born; the names of those killed; the names of the killers; and the records of the destruction. A holocaust was uncovered and revealed in all its horror.

III. CONCLUSION

We won our case. The judgment was uncompromising.

I am clearly satisfied on the evidence as a whole upon the standard of proof agreed to apply to this case that the pursuer participated in many operations involving the killing of innocent Soviet citizens, including Jews in particular, in Byelorussia during the last three months of 1941, and in doing so committed war crimes against Soviet citizens who were old men, women and children. I further hold it proved that the pursuer was the Platoon Commander of the platoon in which Antanas Aleksynas served . . . and that that platoon participated specifically in the [operations mentioned in the documentary]"¹⁰

But what did all this achieve? It did not achieve a prosecution, for reasons I yet do not comprehend, the Prosecution authorities decided there was insufficient evidence for a criminal trial. Did we have a pyrrhic victory, serving only to open up old wounds, excite the press, and cause grief? Or did we serve the purpose of telling a story lost on a generation which looked on these matters as only *history*?

My answer is the answer given to me by Professor Draper who had given us much help. I hope you will agree with me it is the only answer:

If you, but think, of the talent, of the geniuses, of the scientists, of the artists, of the writers, of the poets, and of the tens of scores of thousands of ordinary, decent human beings who perished in these genocide acts, one is moved to say: By God, what right does any man order this to be done to people? It is so ghastly that I do not think that posterity can afford to forget it."¹¹

10. *Gecas v. Scottish Television PLC*, Sess. Cas., July 17, 1992, available in LEXIS, Scot Library, Cases File.

11. Draper, Law Professor (1991).